

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
WESTERN DIVISION

LAWRENE LA SPINA #82781-054

PETITIONER

VERSUS

CIVIL ACTION NO. 5:06cv79DCB-JCS

CONSTANCE REESE, FCI Yazoo, Miss. - Warden/Agent;
HARLEY LAPPIN, Bureau of Prisons Director/Principal

RESPONDENTS

MEMORANDUM OPINION AND ORDER

This matter is before the Court, *sua sponte*, for consideration of dismissal. Petitioner La Spina, a federal inmate incarcerated at FCI - Yazoo City at the time the petition was transferred to this district court from the United States District Court for the District of Columbia, files this petition for *habeas* corpus relief pursuant to 28 U.S.C. § 2241. Upon review of the petition [1-1] submitted, the Court finds that the instant petition should be dismissed for abuse of the writ.

The petitioner was convicted in the United States District Court for the Southern District of New York in criminal case number 99cr339 and was sentenced to 78 months of incarcerated. He was also convicted in the United States District Court the Southern District of New York in criminal case number 01cr904 and was sentenced to an additional four months of incarceration.

The petitioner requests that his sentences in the Southern District of New York be nullified and he be released immediately .

Analysis

Petitioner La Spina is attempting to raise the same ground for habeas relief that he has previously raised in this Court and the United States Court of Appeals for the Fifth Circuit.

See La Spina v. United States of America, et al., No. 5:05cv186DCB (S.D. Miss. Jan. 5, 2005); La Spina v. Reese, et al., No. 5:05cv183DCB (S.D. Miss. Nov. 22, 2005); La Spina v. Reese, No.5:04cv267 (S.D. Miss. Nov. 19, 2004); and La Spina v. Pettiford, , No. 04-60232 (5th Cir.

Oct. 22, 2004). In Davis v. Fetchel, 150 F.3d 486 (5th Cir. 1998), the Fifth Circuit concluded that a third petition filed pursuant to section 2241 constituted an abuse of the writ. Petitioner's third petition filed in La Spina v. United States of America, et al., No. 5:05cv186DCB (S.D. Miss. Jan. 5, 2005) was dismissed by this Court in 2005 and the petitioner was warned that further filings asserting the same claims previously challenged in this court could result in the newly filed § 2241 petition being dismissed as an abuse of the writ. The instant petition is the petitioner's fourth attempt at relief on these grounds and is found to be an abuse of the writ. This Court will not entertain a new habeas petition regarding the petitioner's sentence based on the same or similar claims as previously presented concerning his convictions in the United States District Court for the Southern District of New York, criminal case numbers 99-cr-339 and 01-cv-904, no matter how he repackages the issues or styles the action.

Conclusion

This action for *habeas* relief filed pursuant to 28 U.S.C. § 2241 is clearly an abuse of the writ and shall be dismissed with prejudice. Petitioner is warned that any future attempts of a similar nature may lead to the imposition of sanctions, including but not limited to monetary fines or restrictions on petitioner's ability to file *pro se* actions in this Court.

A Final Judgment in accordance with this Memorandum Opinion and Order shall issue this date.

THIS, the 17th day of July, 2006.

S/DAVID BRAMLETTE
UNITED STATES DISTRICT JUDGE